Calendar No. 85

98TH CONGRESS, 1st Session | SENATE | REPORT No. 98-56

MARINE SAFETY AND SEAMAN'S WELFARE

APRIL 12, 1983.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 46]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 46) to consolidate and reenact certain of the marine safety and seaman's welfare laws of the United States, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE OF BILL

The purpose of S. 46, as reported, is to restate without substantive changes of a controversial nature, the existing laws enforced by the U.S. Coast Guard governing commercial shipping and navigation and recreational boating, principally contained in title 46 of the U.S. Code. Many of these laws are well over 100 years old. Many more recently enacted laws were designed to remedy specific problems, and often were designed without regard to the scope and format of the existing body of law. Terminology has not always been consistent. Finally, amendments to existing laws have not always conformed with statutes enacted in the interim.

BACKGROUND AND NEEDS

The essential goals of this bill may be identified as threefold. First, to reorganize these shipping laws to make them easily understood by the affected public. On numerous occasions, the lack of organization and the internal inconsistency of title 46 has rendered maritime activity unpredictable and has resulted in substantial

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litigation. The courts, in turn, have directed criticism at Congress for permitting the muddled and outdated nature of title 46. As long ago as 1937, the U.S. Supreme Court in *Kelley* v. *Washington* (302 U.S. 1, 4 (1937)) made reference to the maritime safety laws of this country as "a maze of regulations". A simple example of the type of situation to be improved is that of the status of classes of vessels subject to inspection and safety regulation. At present, a minimum of 13 sections of the U.S. Code must be consulted to determine the various types of vessels subject to the general "inspection" authority of the Coast Guard. Each makes a slightly different use of terms, some with language which cannot be take at face value because collaterally qualified by some other nonreferenced law. This bill attempts to remedy this situation by providing definitions, by making a complete and simultaneous statement of the classes of vessels to be regulated in the same general manner, and by gathering the exceptions to the general rule in one place.

A second purpose is to facilitate application of these laws to the maritime community in a manner that is easier, quicker and less expensive. With the goal of regulatory reform in mind, it is the intention of the Committee that this bill will further cost savings for the Federal Government and efficiencies for the industry. Since only a handful of Coast Guard officers and highly specialized legal experts, employing the experience and wisdom gained over many years, really understand these laws, the frequent result has been uncertainty and delay for industry. Such uncertain application also impedes technological development. If the laws are organized so that they can be more easily found and understood, the potential exists in the future for a delegation of responsibilities to the private sector, with further cost savings for the Federal Government.

A third problem to be remedied by this bill, obvious even to the most casual reviewer, is that many of the existing laws are simply outdated. One good example of an antiquated law is the scale of provisions to be allowed and served out to the crew during the voyage. Dating back to 1872, this scale makes references to ounces of lard, hominy and other provisions irrespective of any modern nutritional wisdom. We have identified those Code sections which no longer serve any purpose and have updated or repealed them.

HISTORY

At a very early date in the history of the United States, the Congress embarked upon the work of regulating shipping. In fact, the recognized need for uniform regulation of shipping and navigation was one of the compelling reasons for the formation of a more perfect union of the States.

The first session of the First Congress of the United States held in New York on March 4, 1789, passed an act imposing duties on tonnage (1 Stat. 27), and an act for registering and clearing vessels, regulating the coasting trade, and for other purposes (1 Stat. 55). At the second session of the First Congress, the Tonnage Duty Act was suspended and amended (1 Stat. 112), and an act for the governing and regulating seamen in the merchant marine was enacted (1 Stat. 135, 145).

The first act of the second session of the Second Congress held in Philadelphia, November 5, 1792, provided for the registry and recording of vessels (1 Stat. 287). At that session Congress also passed the first act for enrolling and licensing vessels in the coasting trade and fisheries (1 Stat. 305).

In the Revised Statutes of 1878, the shipping laws are contained in six titles as follows:

Regulation of Commerce and Navigation, Revised Statutes, sections 4131–4305.

Regulation of Vessels in Foreign Commerce, Revised Statutes, sections 4306–4310.

Regulation of Domestic Commerce, Revised Statutes, sections 4311–4390.

Regulation of Fisheries, Revised Statutes, sections 4391–4398.

Regulation of Fisheries, Revised Statutes, sections 4399–4500.

Merchant Seamen, Revised Statutes, sections 4501–4612.

In the 105 years following the enactment of the Revised Statutes, there has been no revision of the shipping laws. The various statutes passed by Congress from time to time since 1878 have been included in the U.S. Code together with the sections of the Revised Statutes, without any attempt to consolidate or rewrite conflicting provisions.

Moreover, during the 105 years since enactment of the Revised Statutes, responsibility for administration of the shipping laws has undergone a number of permutations. All of the statutory powers and duties contained in the new subtitle that are now vested in the Secretary of Transportation, and administered through the Coast Guard, were originally vested in some other official. Some of those powers and duties have undergone as many as eight transfers by implied amendment and Reorganization Plans without the statute concerned over having been expressly amended. Many sections of title 46 of the U.S. Code are presently several transfers behind in identifying the official responsible for their administration.

This problem of "collateral changes," without direct amendment of the statutes themselves, pervades the entire body of law under consideration. Most of the statutes to be replace are from the revised statutes and statutes at large enacted prior to 1946. As a consequence, Government agencies and officials specified therein no longer endure and transfers of their functions have been made by reorganization plans and reorganization acts without direct amendment of the earlier-enacted statutes. Archaic terms such as "collector of customs," "board of local inspectors," and "Bureau of Marine Inspection and Navigation" remain in the existing statutes unaffected by direct amendment of acts of Congress.

The principal changes brought about collaterally have been caused by:

(1) Reorganization Plan 3–46 which abolished the Bureau of Marine Inspection and Navigation and the officers and the boards thereof, and transferred all functions of the Bureau, of its officers and its boards, and of the Secretary of Commerce pertaining thereto, to the "Commandant of the U.S. Coast Guard";

(2) Reorganization Plan 26–50 which transferred all functions vested in the Bureau of Customs and its officers, and of

the Commandant of the Coast Guard (when the Coast Guard is not operating in the Department of the Navy), to the Secretary of the Treasury;

(3) Reorganization Plan 1–65 which abolished the office of Collector of Customs, the functions thereof having been already transferred to the Secretary of the Treasury, by Reorganization Plan 26–50 (mentioned above);

(4) The Secretary of the Treasury's action in 1967, in anticipation of the effective date of the "Department of Transportatin Act" transferring the functions of measurement and documentation of merchant vessels to the Commandant of the Coast Guard;

(5) The "Department of Transportation Act" (Public Law 89–670, October 15, 1966, 80 Stat. 931) which transferred to the Secretary of Transportation all functions vested in the Secretary of the Treasury relative to the Coast Guard when the Coast Guard is not operating in the Department of the Navy;

(6) This same act, which transfers to the Secretary of Transportation the functions of the Secretary of Commerce relative to Great Lakes pilotage (Public Law 86–555, June 30, 1960, 74 Stat. 259), whose functions immediately were delegated to the Commandant of the Coast Guard; and

(7) The Secretary of Transportation's immediate general delegation to the Commandant of the Coast Guard on the effective date of Public Law 89–670 (above cited).

No other reorganization plan, departmental order, statutory transfer of secretarial powers, or delegation has been reflected in the language of the U.S. Code. Some new statutes and amendments to older ones have used the term "Secretary of the department in which the Coast Guard is operating" and this statutory language is, of course, followed without editorial change in the Code language. The result is a hodgepodge, with an element of uncertainty, touching each section of the law. This uncertainty cannot be resolved without ascertaining the original language, which antedates even the first edition of the U.S. Code. Then the threads of shifting authority must be followed through the various reorganization plan to determine where the powers are vested and where the duties lie.

The need for codification of the shipping laws has long been recognized. This committee is aware of a nunber of previous unsuccessful efforts. On May 12, 1908, President Theodore Roosevelt appointed a "Commission on Revision of Law Relating to Safety of Life at Sea". The following year the President transmitted the Commission's report in the form of a bill embodying "a systematic rearrangement and codification of existing law" to the Congress.

In section 12 of the act of Sept. 7, 1916, ch. 451 (39 Stat. 732: 46 U.S.C. 811) Congress directed the U.S. Shipping Board to "examine the navigation laws of the United States and the rules and regulations thereunder, and make such recommendations to the Congress as it deems proper for the amendment, improvement, and revision of such laws". Accordingly the Shipping Board prepared and in 1926 published a "Proposed Codification of the Navigation Laws of the United States containing all laws of the United States of a general, permanent, and public nature relating directly to shipping

and navigation and the rights and liabilities of vessels, their owners, masters, and crews".

In 1946, the former Committee on Revision of the Laws undertook the codification of the shipping laws in title 46 using the services of West Publishing Company and the Edward J. Thompson Company, thus bringing to the undertaking the combined editorial resources and experiences of the two leading legal publishing firms. Those were the companies which, under the supervision of that committee, had prepared the original U.S. Code in 1926 and subsequently edited the code and its supplements. Those companies engaged as chief reviser, William W. Barron, former chief of the Appellate Section of the Criminal Division of the Department of Justice, and as special consultant, William Radner, former general counsel to the War Shipping Administration. An advisory committee of recognized leaders of the admiralty bar assisted. The resulting proposed codification was introduced in 1947 (H.R. 4619, 80th Cong.) and reintroduced in 1949 (H.R. 1251, 81st Cong.), but did not achieve passage.

In 1960, this Committee became actively interested in revising and restating the shipping laws. The Senate Commerce Committee requested the Treasury Department, through its Bureau of Customs and the Coast Guard (then still in the Treasury Department) to revise the statutes relating to their respective maritime functions. In 1967 committee prints of the Bureau of Customs and Coast Guard draft revision were prepared by the Senate Committee on Commerce.

A similar yet more all-encompassing effort to consolidate and reenact all of title 46 was generated by the Senate Judiciary Committee in 1970. This effort was also shelved, due, among other things, to the administrative upheaval resulting from the creation of the new Department of Transportation.

S. 46, the bill described herein, was first initiated by Senator Bob Packwood, Chairman of the Committee on Commerce, Science, and Transportation, in the 97th Congress when he introduced for himself and Senators Stevens and Gorton a bill to consolidate and reenact certain marine safety and seaman's welfare laws (S. 2660). The bill, as introduced, reflected a 20-year effort by this Committee in cooperation with the Coast Guard, and incorporated comments received from all sectors of the maritime community.

A subsequent staff draft of S. 2660 incorporated many of the public comments and criticisms received during the balance of the 97th Congress. In keeping with its goal of restating current law without substantive change of a controversial nature, the Committee introduced S. 46 as a bipartisan effort, in cooperation with labor and industry. Certain provisions in existing law were changed or updated and will be elaborated upon herein.

The following excerpt (authored by marine safety expert Capt. Clint Maguire (U.S.C.G., Ret.) and Lt. Cmdr. Robert McDaniel, U.S.C.G.) from the March 1982 edition of the Proceedings of the Marine Safety Council, entitled "The Maze Revisited: An Update on the Revisions of the Shipping Laws", traces the evolution of S. 46 under the aegis of the Coast Guard:

> Because of its complexity, title 46 has proved to be among the most difficult for Congress to enact as "positive law" (in

other words, Congress has had difficulty reenacting the previously enacted statutes into a consolidated, organized title of the United States Code). The first attempt to "codify" Federal shipping law came in 1929, shortly after the adoption of the U.S. Code. That effort failed for reasons which have now become obscure. A similar effort in the late 1940's also failed. In the early 1960's the Commandant of the Coast Guard, partially in response to the urgings of the Senate Commerce Committee, assembled a special team of three attorneys to draft in positive law form, without making any "substantive change of a controversial nature," a restatement of title 46. This group worked diligently for almost 3 years and, in 1967, presented to the Commerce Committee a draft of "A Bill to Consolidate and Reenact Certain of the Marine Safety and Seamen's Welfare Laws of the United States." The draft received widespread approval and would have placed all of the commercial vessel safety law in a single, easily usable format for the first time in almost 100 years. However, in the administrative upheaval resulting from the creation of the new Department of Transportation, the bill was scrapped.

Things remained unchanged from 1967 until 1971, when yet another restatement was attempted and eventually shelved. The project was not resumed until the spring of 1980, when the present Commandant[1] designated the redrafting and simplification of the shipping laws one of his "milestone projects." A draft proposal, based largely on the 1967 bill, has now been prepared and is under scrutiny throughout the maritime community.

Two elements in the intended format are worth noting. One is the reorganization of related material into units. An example is the treatment of the Federal Boat Safety Act, which cuts across the areas of safety equipment for recreational vessels, manning of certain commercial passenger-carrying vessels, identification of undocumented self-propelled vessels, and negligent operation of all vessels.[2] The intent to reorganize these matters with other of related or supplementary application is reflected in the proposal.

The other element is the tailoring of language to facilitate both temporary inclusion in the U.S. Code and ultimate assimilation into a truly "codified" title. The substitutes made necessary by nonstatutory reorganization plans and other transfers of authority, especially since 1946, have frequently caused confusion in the shipping industry. Terms used in this draft restatement, as well as the internal cross references, have been designed to present the code editors with the least need for editing and to minimize potentially confusing terminology.

The purpose of the current legislative proposal is to make the law easier for the Coast Guard to administer, easier for the maritime community to apply, and easier for everyone to understand. The drafting of the legislative proposal began in ear-

[1] Adm. John Hayes, who was succeeded by Adm. James Gracey in 1982.

[2] Presently there is a disagreement as to whether the Federal Boat Safety Act provisions on negligent operation apply to all vessels or to recreational boats only.

nest in May 1980 at the direction of the Commandant of the Coast Guard and under the guidance of the Chief Counsel and the Chief, Office of Merchant Marine Safety. Using as its foundation a 1967 Commerce Committee print of "A bill to Consolidate and Reenact Certain of the Marine Safety and Seamen's Welfare Laws of the United States," the drafters proceeded with their task, again under the general guideline that they make no "substantive change of a controversial nature." After eighteen months, a draft proposal was complete. The product divided existing marine safety and seamen's welfare laws into ten clearly defined chapters. It filled three hundred pages of text.

At this point, those close to the project came to understand that they were faced with the awesome task of testing what they had produced against the actual text of the existing shipping laws, knowing that any attempt to bring 108 years of piecemeal Congressional activity into a single, succinct document would invariably result in inadvertent omissions, conflicts, and editorial inaccuracies. The Coast Guard sought the opinion, cooperation, and assistance of those who would be most affected by the legislative proposal.

First, the drafters of the legislation went to the Coast Guard itself. A special panel of three senior and highly qualified officers whose careers had been concentrated in fields related to the regulation of commercial shipping was appointed by Rear Adm. Clyde T. Lusk, Jr., Chief, Office of Merchant Marine Safety, to examine the draft proposal for consistency with long-standing Coast Guard practices and interpretations. For several weeks the panel went painstakingly through the 300-page document, line by line. Once their comments had been evaluated and incorporated into the proposal, a second edition of the draft was produced and distributed to Coast Guard Marine Safety and legal personnel in some of the nation's busiest port cities. Meetings were then held between these persons and the draftsmen to determine whether the proposal was in conformity with the manner in which the law is now being applied by Coast Guard field units. Once the views of the Coast Guard field and operational personnel had been obtained, the draft was again updated. At this point the Chief Counsel of the Coast Guard was confident that he had produced a draft proposal which accurately reflected the manner in which the Coast Guard construed and applied the existing provisions of the several hundred sections in title 46 which come under its administration. However, work was just beginning.

The next step was to obtain the views of those people whose commercial and recreational interests were regulated by the federal shipping code. A number of industrial groups, labor organizations, shipping companies, trade associations, and law firms were contacted and asked whether they would be interested in participating in the early stages of drafting a way out of the maze. The response was overwhelming. In the weeks that followed, copies of the legislative proposal and supporting documents were delivered to dozens of individuals and groups. As these organizations began their analysis of the proposal, the

Coast Guard contacted the prestigious Maritime Law Association of the United States (MLA) and asked for its assistance. The MLA, an organization which has an acute interest in establishing uniform laws, expressed immediate support of the goals of the project through its President, John W. Sims, of New Orleans.

In November 1981 the Chief, Maritime International Law Division at U.S. Coast Guard Headquarters was invited to address the MLA's Committee on Coast Guard and Navigation at its annual meeting in New York. As a result of that meeting and other discussions, dozens of members of the Maritime Law Association examined portions of the draft proposal and provided the Coast Guard with their critical comments. On January 29, 1982, a meeting was held at Coast Guard Headquarters in Washington at which interested representatives from all areas of the maritime community were invited to comment on the proposal. The substance of comments received up to that point was made known at the meeting. A general description of the intent and purpose of the legislative proposal was offered, and objections and other comments were heard. At the conclusion of the meeting, the Coast Guard began to move rapidly to finalize its legislative proposal.

S. 46 was ordered reported by the full Commerce Committee on March 22, 1983.

Scope of the Bill

This bill universally vests all authority in the "Secretary of the department in which the Coast Guard is operating," and provides authority to the Secretary to delegate and allow for subdelegation. In all instances in which field action will clearly be taken under delegated authority, this bill speaks of "designated official," rather than creating several classes of Government officers.

A frequent assertion made both by Government and industry is that laws such as those regulating vessel safety and the merchant seaman should be modernized and improved. The difficulty has been, however, that given the results of the rather irrational and piecemeal development of legislation, every effort directed to improvement of specific laws has resulted in unforeseen difficulties due to conflicts with overlooked provisions of other laws.

It is believed that the reordering of concepts and the clarification of relationships that will result from this bill will produce, among other things, a body of law which might later be substantively improved. This bill strives to rearrange statutory material so that the subject matter is reflected in chapter and subchapter groupings. It also seeks to eliminate independent statements that cut across several categories of interest. To the extent that these goals are achieved, it is clear that the bill will reduce the volume of language needed to produce the same results and provide easier access to the law. It is hoped that the bill will stimulate a reorganization and reduction of the regulations now encrusting the statutory body.

RESTATEMENT OF SUBSTANCE

The object of the new subtitle is to restate existing law, and to make new law. The Committee particularly emphasizes the fact that revisions of existing statutory language as part of this subtitle will in no way change the effect of that language unless such intention is clearly expressed. The pertinent provisions of law have been freely reworded and rearranged, subject to every precaution against disturbing existing rights, privileges, duties, or functions and consistent with the general plan of the U.S. Code. However, in our effort to adhere to existing law, we have not chained ourselves to the letter of the statute. Rather, we have chosen to follow its spirit. Where court decisions, opinions of officials such as the Attorney General or the Comptroller General, Executive orders, regulations, and well-established administrative practice have established authoritative interpretations of these statutes, we have not intended to overrule them without expressly so providing.

RELATED LAWS

In order to make a complete substitution of new subtitle of the U.S. Code for the earlier laws relating to the same subject, the bill to enact the new subtitle will expressly repeal the following laws:

(1) All permanent laws that are consolidated in the new subtitle.

(2) All permanent laws relating to the subjects covered by the new subtitle, or heretofore consolidated which are obsolete, executed, or superseded. This class includes laws that have been heretofore repealed by implication only, whether or not heretofore consolidated in title 46 or elsewhere in the U.S. Code.

STEPS TAKEN TO INSURE COMPLETENESS AND ACCURACY

Every precaution has been taken to insure that the bill accurately restates or otherwise appropriately disposes of all laws coming within the scope of this consolidation project.

Careful research was undertaken to make sure that no relevant but heretofore uncodified law and no relevant law previously allocated to another place in the U.S. Code has been overlooked.

The table at the end of this report shows the new location or other disposition of those parts of the U.S. Code that have been dealt with in this revision.

COMPARATIVE TABLE

The comparative table found at the end of this report identifies affected sections currently in the U.S. Code and their disposition or treatment under this bill. Some sections have been repealed without replacement, these are noted. Other sections have new comparison sections in this bill or have been left unchanged, these have been indicated as well.

INTERNAL ARRANGEMENT

The object in developing the internal arrangement of the new bill has been to make it as useful as possible. The subjects have been arranged so that they can be found with the least possible effort. Provisions relating primarily to administration have been arranged from the viewpoint of the persons who will administer them. Provisions relating primarily to the conduct, rights, privileges, or duties of persons not administering them have been arranged from the viewpoint of those persons. In general, the amount of page-turning involved in finding relevant provisions has been reduced as far as possible.

Similarly, historical groupings have been changed where other groupings are considered to offer more advantages. In order to help persons consulting the law to interpret it correctly, subjects have been arranged, where practicable, to reflect the rationale underlying the law.

REVISION OF LANGUAGE: STYLE

Consolidation involves the apparent paradox that laws must be changed in form so that they remain unchanged in substance. Not to reword the statutes that are being consolidated would result in obscurity, ambiguity, prolixity, and inconsistency. Problems of construction that do not exist when inconsistencies in language appear in independent enactments necessarily arise when they are juxtaposed in a single reenactment.

Some of the laws restated in the bill were written in their present language over 180 years ago. Others were enacted very recently. Words used in one era or context often mean something different in another. Even laws relating to the same subject and enacted in the same era are often not uniform. For example, one act may use the term "individual of a State" to describe what another describes as a "citizen."

In restating the laws in the new subtitle for consistency and clarity, the drafters have made every effort to make the result an up-to-date and unified whole by following accepted modern usage and the best methods of legislative drafting.

SUBSTANTIVE CHANGES NOT INTENDED

There are no substantive changes of a controversial nature intended to be made by this bill. It is sometimes feared that mere changes in terminology and style will result in changes in substance or impair the precedent value of earlier judicial decisions and other interpretations. This fear might have some weight if this were the usual kind of amendatory legislation where it can be inferred that a change of language is intended to change substance. In a codification statute, however, the courts uphold the contrary presumption: no change in law is intended unless clearly expressed. The following authorities affirm this principle:

Fourco Glass Co. v. *Transmirra Products Corp.* (353 U.S. 222, 227 (1957)).

Tidewater Oil Co. v. *United States* (409 U.S. 151, 162 (1973)).

Muniz v. *Hoffman* (422 U.S. 454, 467–74 (1975)).

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., March 25, 1983.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 46, a bill to consolidate and reenact certain laws related to vessels and seamen as subtitle II of title 46, United States Code, "Shipping", as ordered reported by the Senate Committee on Commerce, Science, and Transportation, March 22, 1983.

S. 46 consolidates a number of maritime safety and welfare laws of the United States under title 46 of the United States Code. Title 46 covers such subjects as the inspection, regulation and documentation of vessels, marine casualties and accidents, the manning of vessels and merchant seamen protection and relief. In addition, the bill includes a chapter on state boating safety programs, including an allocation and distribution formula for the recreational boating safety programs and the boating facilities improvement programs.

Based on this review, it is expected that enactment of this bill would result in no significant cost to the federal government and would not affect the budgets of state and local governments.

Sincerely,

Alice M. Rivlin, *Director.*

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

No additional businesses or individuals will become subject to regulation as a result of this revision and consolidation of title 46 of the U.S. Code. In fact, to the extent that these laws are more logically organized and more clearly identified and applied, the regulatory burden will be reduced.

This revision should have a positive impact upon the maritime community by providing it with a better organized area of the law upon which its members can base suggested amendments or movements for reform in the maritime industry as currently regulated by the Coast Guard.

It is difficult to identify any new economic costs which might accrue to the U.S. Government as a result of this enactment of this bill. To the extent that parts D, E, and H have streamlined the various reporting and certification requirements of the existing law, there will be a reduction in paperwork.

No impact upon the privacy of owners vessel officers, merchant seamen, or other interested parties can be anticipated as a result of passage of this bill.

SUMMARY OF PROVISIONS

For each part of the bill, a note has been written, summarizing the statutory provisions and explaining significant changes and omissions from that law as it currently appears in the United States Code.

PART A—GENERAL PROVISIONS

Part A of the proposed new subtitle II of title 46, U.S. Code, states general provisions relating to the laws governing marine safety and seamen's welfare. Section 2101, which begins chapter 21, broadly contains applicable definitions, like the definition of the "United States" or "Secretary." Section 2102 provides definitions limited to chapters dealing with the inspection of recreational vessels, the numbering of undocumented vessels, and state boating safety programs.

Section 2103 provides that the Secretary of the department in which the Coast Guard is operating has general superintendence over the American Merchant Marine and has responsibility to administer the laws in subtitle II in an equitable manner. Section 2104 sets forth broad delegation authority for the Secretary, including the authority to delegate duties and powers under subtitle II to any Coast Guard official. Under section 2105, the Secretary is directed to investigate the operation of subtitle II and all marine safety laws, with annual reporting to the Secretary of needed improvements.

Sections 2106, 2107, and 2108 address matters pertaining generally to civil penalties for violations of the subtitle or regulations thereunder. Such aspects as liability in rem and procedures for assessing, collecting, and refunding penalties are covered. Section 2109 makes it clear that public vessels, like those of the Navy and National Oceanic and Atmospheric Administration, are not to be governed by subtitle II, although Maritime Administration vessels would be. Section 2110 forbids the Secretary from imposing fees for services carried out under subtitle II, except when fees are specifically provided for in the subtitle. Authorization and procedures for paying civilian employees for overtime services are provided in sections 2111 and 2112 in connection with vessel and equipment inspections, shipment and discharge of vessel crews, and vessel measurement and documentation. Section 2113 establishes the President's power to extend key vessel and seamen's welfare laws to additional classes of vessels and waters. Section 2114 enables the Secretary to exempt oceanographic research and excursion vessels by regulation from the inspection and manning requirements of parts B and F. Under section 2115, the President is permitted to suspend any of the inspection provisions in part B applicable to a foreign-built, U.S.-flag vessel if deemed necessary for foreign commerce.

Chapter 23, which covers sections 2301 through 2305, governs the operation of vessels generally, and contains a number of provisions involving civil and criminal penalties and in rem liability for im-

proper vessel operation. Responsibilities for vessels to render assistance and furnish information when involved in marine casualties are also covered. A question has been raised as to whether the prohibitions in section 2302 apply to all vessels or are limited to recreational vessels. The Committee does not intend the language in section 2302 to put to rest any such dispute over the existing law, specifically the Federal Boat safety Act of 1971.

PART B—INSPECTION AND REGULATION OF VESSELS

Part B begins with a general definition section (Chapter 31, section 3101) governing the inspection and regulation of vessels. The definitions describe more than a dozen kinds of vessels addressed in the subtitle, from tank vessels and seagoing barges to oceanographic research vessels and sailing school vessels.

Chapter 33 sets forth general rules pertaining to vessel inspection, applicable to ten different categories of vessels. Section 3301 list the categories; steam vessels, seagoing motor vesseels, tank vessels, seagoing barges, freight vessels, passenger vessels, small passenger vessels, nautical school vessels, offshore supply vessels, and sailing school vessels. This list represents a major improvement over the present version of title 46, U.S. Code, which has no statutory list of vessels subject to inspection. An individual trying to ascertain the inspection requirements of a given vessel must currently examine the Code of Federal Regulations' list of more than seventy vessel classes (46 CFR 2.01–7A).

Section 3302 provides a number of exemptions for various types of vessels, for example certain tender and transport vessels involved in the fisheries off the Pacific Northwest and Alaska. Subsection (a) of this section also includes language to make it clear that inspection requirements for any given vessel must be determined by matching the vessels characteristics and activities against each category definition. Exemption from one category does not mean that inspection requirements for other categories might not apply to the vessel in question. For example, a vessel that falls clearly within the "small passenger vessel" category may also be subject to inspection rules for tank vessels if it should happen to carry oil as cargo.

Section 3303 provides special treatment for passenger and sailing school vessels of foreign countries having inspection laws and standards similar to those of the United States. The section also requires that inspection fees for foreign vessels carrying U.S. passengers be the same as such fees for U.S. vessels in the flagstate's ports. Section 3304 sets forth rules regarding the number of noncrewmembers a U.S.-flag cargo vessel may carry without being subject to inspection as a passenger vessel, requires notice to such noncrewmembers regarding possible safety risks on board, and provides the same privilege to foreign cargo vessels whose flag-countries reciprocate for U.S. vessels.

Sections 3305 and 3306 establish the framework of the Coast Guard's vessel inspection authority, from the fundamental objectives of each inspection set forth in section 3305(a), to its power section 3306(a) to issue regulations for ensuring effective inspection. These sections include specialized provisions on sailing school ves-

sels and nautical school vessels, but most importantly address the Coast Guard's responsibility to look after the suitability and safety of the ship itself and its cargo, the adequacy of the safety equipment on board, and the sufficiency of accommodations.

Section 3307 prescribes initial certification inspections for all vessels subject to inspection under Part B as well as the frequency of reinspections required for particular categories of vessel. In addition, section 3308 provides for periodic inspections to ensure compliance with laws and regulations and to make certain that crew accommodations are of a lawful size, are well-ventilated and sanitary, and are equipped with properly functioning plumbing and mechanical appliances required by law. Section 3309 requires that a current certificate of inspection be issued to any vessel found to be in compliance with the law following a section 3307 inspection. Under section 3310, the Secretary is required to keep records of all acts of inspection and certificates of inspection issued. Vessel operation without a valid certificate of inspection is forbidden by section 3311, and conspicuous display on the vessel that certificate is mandated by section 3312.

Section 3313 describes what official actions may be taken if a vessel does not comply with its certificate or fails to satisfy some other requirement of part B, including the ultimate step of revocation or suspension of the inspection certificate. Section 3314 permits a vessel 30 extra days to obtain a certificate if its certificate expires on a foreign voyage, with the exception that a vessel whose certificate is due to expire 15 days before departing on a foreign voyage during which the certificate would expire is required to secure a new certificate before sailing. Section 3315 sets forth the responsibility of a vessel's licensed officers to assist in inspection of the vessel and make known any defects and imperfections they are aware of, to notify enforcement officials of any serious marine casualty involving the vessel, and to protect the confidentiality of informants.

Section 3316 outlines terms and conditions under which the Secretary is authorized to delegate vessel inspection activities, including the issuance of certificates, to an American classification society like the American Bureau of Shipping. This restates a recent change in the law to eliminate Coast Guard inspections that are largely duplicative of ABS inspections.

The final two sections of chapter 33 address fees and penalties relating to vessel inspection. For example, section 3317 provides for reimbursement to the Secretary for expenses for an overseas inspection at the vessel owner's or operator's request. The penalties stated in section 3318 cover civil and criminal penalties for a variety of offenses involving inspections, including such violations as tampering with plans or specifications required by inspection regulations, with intent to deceive or impede a U.S. official in the discharge of his duties.

Chapter 35 contains provisions specifically directed at inspections as they pertain to the carriage of passengers. Section 3501 requires that certificates of inspection for most passenger vessels included a statement on the number of passengers permitted on board. In addition, penalties for exceeding this passenger limit are set forth in the section. Section 3502 imposes on most passenger vessels using

U.S. ports the requirement to keep lists of passengers received and delivered, which would be open to examination by Coast Guard and Customs Service officials at all times. Penalties for failure to keep the requisite lists are also indicated. U.S. passenger vessels with capacities of 50 or more passengers are required by section 3503 to be built with fire retardant materials. Section 3504 covers requirements that prospective passengers on foreign or domestic ocean liners be notified of safety standards applicable to the vessel as well as the vessel's registry. Penalties for violations of section 3504 are also set forth. Section 3505 provides for detention in port of a large passenger vessel if the Secretary finds that the vessel does not comply with the SOLAS Convention to which the United States is a party. Section 3506 requires that passenger vessels keep on board a copy of subtitle II of 46 U.S. Code.

Chapter 37 covers the carriage of liquid bulk dangerous cargoes and is for the most part identical to the Port and Tanker Safety Act of 1978. Seventeen definitions pertaining to this area of the law are set out in section 3701 and the chapter's general applicability to tank vessels, along with a few special exceptions, is stated in section 3702. The Secretary's regulatory powers for vessels carrying liquid bulk dangerous cargoes are described in section 3703, in recognition of the special risks to life and property, vessel safety, and the marine environment. Not only do these powers extend to requirements for superstructures and hulls, handling and storage of cargo, safety equipment, manning, and the duties, qualifications, and training of the officers and crew, but they also address improvements in vessel features that reduce the possibility of marine casualties and tar reductions or elimination of discharges of dangerous liquids during various phases of vessel operation.

Sections 3704 through 3709 provide minimum standards and exemptions relating to different ages, types and sizes of tank vessels. A segregated ballast tank, a crude oil washing system, or an inert gas system is required at a minimum for tank vessels in the U.S. coastwise trade. Section 3709 permits the Secretary to grant exemptions from the standards in sections 3704 through 3708 upon deciding that adequate facilities ashore present a preferable method of handling ballast.

Compliance with chapter 37 requirements is ensured through certificates of inspection issued by the Secretary under section 3710 for U.S. vessels and certificates of compliance issued under section 3711 for foreign-flag tankers operating on U.S. navigable waters or tranferring oil or hazardous material in a port or place under U.S. jurisdiction. Section 3712 requires the Secretary to notify the owner or agent of any vessel found in noncompliance and to state how compliance can be achieved. Prohibited acts, for example, refusal to permit a duly authorized official to conduct a vessel inspection, are set forth in section 3713.

Under section 3714 the Secretary is required to have each applicable tanker inspected at least once a year, with special structural strength and full intergrity inspections for each such tanker that is over 10 years old. To aid inspections, the applicable tank vessels are required to carry documents listing the kind, grade, and approximate quantities, of cargo on board; the shipper and consignee of the cargo; the places of origin and destination of the vessel; and

the name of an agent in the United States authorized to accept service of legal process.

Section 3715 contains special provisions pertaining to the lightering of oil or hazardous material in a port or place under U.S. jurisdiction. In such cases, both the delivering and receiving vessels must have a certificate issued under section 3710 or 3711 at the time of the tranfer. The Secretary is also required to issue regulations on such lightering activities, including provisions on minimum safe operating conditions.

Section 3716 forbids a vessel from transferring cargo in a port or place under U.S. jurisdiction if the vessel has illegally discharged tank washing in preparation for loading at that port or place. Section 3717 requires the Secretary to establish a marine safety information system concerning the U.S. operations of vessels carrying dangerous liquids in bulk. Information to be recorded in the system includes the name of each person with an ownership interest in a given vessel; details of compliance with financial responsibility requirements of law; registration information including all name changes of the vessel; the vessel's history of marine casualties and serious repair problems; and a record of all its inspections under section 3714. Penalties for violating the provisions of chapter 37 are specified in section 3718.

Chapter 39 contains two sections, section 3901 states the Secretary of Agriculture's power to prescribe regulations for accommodating animals on voyages from the United States to a foreign country and to conduct such vessel examinations as he determines necessary. Penalties for violating the Secretary of Agriculture's regulations for animal carriage by sea are specified in section 3902.

Chapter 41 covers uninspected vessels, except passenger vessels. Sections 4101 through 4106 provide regulatory authority for the Secretary to prescribe requirements for safety equipment on vessels, establishes a minor exception for motorboat races, and establishes penalties for violating the chapter and regulations thereunder.

Chapter 43 pertains to recreational vessels, including uninspected passenger vessels. The bulk of this chapter is derived from the portion of the Boat Safety Act of 1971 that involves safety standards and inspections for recreational vessels. The parts of the 1971 act dealing with operations and identification of vessels and with state boating programs are contained in parts H and I. The heart of the chapter is section 4302 which outlines the Secretary's regulatory powers, including the establishment of minimum safety standards for recreational vessels and associated equipment and of procedures and tests to measure conformance with the standards; the requirement of the installation, carriage, and use of safety equipment and the prohibition against equipment that does not conform to standards; and the requirement or authorization of labels, plates or other devices for displaying compliance with such safety standards. Other sections in the chapter deal with inspection and testing, Federal preemption, exemptions from the chapter and regulations thereunder, enforcement powers related to unsafe uses of recreational vessel, recordkeeping requirements for boat manufacturers, notification procedures for repair and replacement of defects, and penalties for violation.

PART D—MARINE CASUALTIES

Part C of subtitle II would be reserved for future legislation on vessel load lines. Part D deals with marine casualties, commencing with chapter 61 on the reporting of marine casualties. Section 6101 states the requirement for such reporting, emphasizing casualties involving the death or serious personal injury, material loss of property and material damage affecting a vessel's seaworthiness or efficiency, and section 6102 provides penalties for failing to report.

Chapter 63 pertains to the investigation of marine casualties. Section 6301 requires the Secretary to prescribe regulations for marine casualty investigations, so as to determine the cause of each casualty and of any death resulting therefrom, as well as a number of other matters relating to the casualty such as violations of law and misconduct of Coast Guard employees. Other provisions in the chapter deal with the requirement that investigations be public in most cases, the rights of parties in interest at each investigation, subpena authority to compel the attendance and testing at investigative proceedings, the requirement for investigative reports, the penalty for tampering with an investigation witness, and notification to Congress concerning casualty investigations. No change in the existing law regarding parties in interest is intended.

PART E—LICENSES, CERTIFICATES, AND MERCHANT MARINERS' DOCUMENTS

Chapter 71, which begins part E, addresses licenses and certificates of registry. Section 7101 sets forth the basic authority for the issuance of licenses to qualified individuals to serve as officers (including masters, mates, and engineers), pilots, operators, and radio officers, as well as certificates of registry for pursers, medical doctors, and nurses, on various categories of vessels. Other provisions in the chapter deal with such matters as citizenship, duration of licenses and certificates of registry, military draft exemptions, renewal and termination of licenses, and fees.

Chapter 73 pertains to merchant mariners' documents. Such a document serves as an individual's certificate of indentification and as his certificate of service, specifying each rating in which he is qualified to serve on board vessels on which a merchant mariner's document is required under part F. The bulk of the chapter prescribes the qualifications for able seamen (5 different classes), qualified members of engine departments, lifeboatmen, and tankermen. Section 7318 authorizes such additional ratings as may be established by the Secretary through regulation. Section 7305 reinstates in statutory form an oath for merchant mariners. The Coast Guard has continued to administer this oath without objection since its disappearance from the law as a result of an amendment by Public Law 96-378, Sec. 4 (94 Stat. 1516).

Chapter 75 contains three miscellaneous sections covering licenses, certificates of registry, and merchant mariners' documents. The issuance of duplicates, the maintenance of complete records by the Secretary, and the power to deny issuance for illegal drug use are addressed. Chapter 77 details procedures for revocation or suspension of a license, certificate of registry or merchant mariner's document.

PART F—MANNING OF VESSELS

Part F consolidates the various personnel and manning standards legislated for vessels of the United States as well as two sections dedicated to pilots. In chapter 81, section 8101 demands the presence of a minimum complement of licensed officers and crew required by regulation for safe navigation of a vessel. This section also requires the licensing of masters, mates, engineers, or pilots of a vessel which is regulated by this part or part B. Section 8102, in the interest of the safety of crew and passengers, requires the presence of watchmen at specific locations aboard ship. Section 8103 directs attention to the citizenship of officers and crew. Different percentages of the crew must by U.S. citizens depending on the nature of the voyage. Only U.S. citizens may serve as master, chief engineer, or officer in charge of a deck or an engineering watch. Those individuals not required to be citizens of the United Staes must possess valid declarations of intent to become U.S. citizens. Certain exceptions are provided to this section as well. Section 8104 provided specific guidelines governing the watch aboard various vessels.

Chapter 83 governs the masters and officers aboard ship. Section 8301 indicates the minimum number of mates and engineers required aboard various vessels with provision made for specific exemptions by the Secretary. The staff department aboard a vessel, composed of a medical and purser's division, is governed, with specific exceptions, in section 8302. Licensing and certification requirements for officers are dealt with in sections 8304 and 8305.

Chapter 85 provides for State regulation of pilots operating under State licensing and authority in the bays, rivers, harbors, and ports of the United States. Coastwise seagoing vessels when not sailing on register and when underway, are required by this chapter to be under the direction of a federally licensed pilot. Since this bill has attempted to bring the affected shipping laws from antiquity into the end of the 20th century, "Steamvessel" as a term of art, has been replaced. Instead, "coastwise seagoing vessel" shall include tank vessels and barges among those ships required at times to have a "Federal pilot." The Committee intends that section 8501(a) will preserve the meaning of the disclaimer language in the second sentence of 46 U.S.C. 215 regarding the impact on State laws regulating pilotage.

Chapter 87 governs the treatment and qualifications of unlicensed personnel. Specific crew members are required under section 8701 to carry merchant mariners' documents. Requirements as to the skills and linguistic ability of certain percentages and specific members of the crew are contained in section 8702. For the safety of the crew and vessel, those vessels carrying oil or hazardous cargo are required by section 8703 to carry onboard specific crew members designated as tankermen.

Chapter 89 provides for the operation of uninspected passenger vessels or towing vessels by specified licensees.

Chapter 91 provides the manning standards for foreign vessels, to which chapter 37 applies operating on the navigable waters of the United States, as well as the manning standards for vessels of the United States.

Chapter 93, entitled "Great Lakes Pilotage," provides an integrated scheme for the supervision of American and Canadian pilots operating in the Great Lakes. Section 9301 provides definitions for "Canadian registered pilot", "Great Lakes", and "United States registered pilot." Section 9302 requires that a pilot of United States or Canadian registry be engaged by any foreign vessel or U.S. vessel sailing on register on the waters of the Great Lakes. Exceptions to this requirement are noted. Standards of competency for the U.S. registered pilot service on the Great Lakes must be met by applicants to the service as specified in section 9303. Pilotage pools and agreements with Canada may be entered into with the consent of the Secretary for the efficient and coordinated dispatching of vessels. States are barred from regulation of Great Lakes pilotage by section 9306. The Advisory Committee established by section 9307 shall assist the Secretary by reviewing and commenting upon Great Lakes policies and pilotage regulation. Violations of this chapter are punished under the penalties section 9308.

PART G—MERCHANT SEAMEN PROTECTION AND RELIEF

Part G encompasses numerous sections of the former Merchant Seamen chapter of the present version of title 46 of the U.S. Code. The initial chapter, 101, is a general, definitional chapter. So as not to burden this bill with undue controversy over what some might argue is, in effect, a substantive change in existing law of a controversial nature, the Committee has chosen to retain the functions of shipping commissioner as provided for in section 10102. The post of shipping commissioner has slipped into disuse and has not had funds appropriated to it in the past few Congresses. The duties of shipping commissioner are performed today by a designated Coast Guard official, in each port, responsible for the supervision of seamen's records. In no way does the Committee mean to revitalize or cause the reestablishment of that office. Rather, it is the intention of this Committee that later legislation will attempt a substantive reform of title 46 and that even the statutory reference to a "shipping commissioner" will be abolished. Reports regarding the discharge and shipment of seamen, in compliance with any regulations prescribed by the Secretary, are required by sections 10103 and 10104 of this chapter.

Chapter 103, entitled "Foreign and Intercoastal Voyages" is a detailed restatement of existing law regarding the requisite shipping articles agreements, and other matters related to seamen on foreign and intercoastal voyages. The signing and posting of these documents is discussed, as is the method by which seamen may be discharged. Entitlement to wages and the right of seamen to advances and allotments is specified. In addition, this section deals with the treatment of the wages of seamen convicted of criminal conduct during the voyage. A significant modernization of existing law is present in section 10303, dealing with shipboard meals. The "scale of provisions" present in existing law dates back to the late 1800's and reflects the nutritional sophistication of the day. Quantities of lard, hominy, biscuits, and the like were required to be rationed out to seamen on specific days. This antiquated statute has survived to the present day. In an attempt to provide seamen with

suitable minimum nutritional standards, the Committee has required in section 10303 that the nutritional standards in daily food allowance, as established by the Surgeons General of the Army, Navy, and Air Force, provide the new minimum guidelines for seamen's provisions and nutrition during the voyage.

Chapter 105, entitled "Coastwise and Nearby Foreign Voyages", treats many of the same topics as chapter 103 and incorporates by reference certain of its sections. Reflected throughout chapter 105 are the provisions of the act of June 9, 1874 (18 Stat. 64). That act contained within it a reference to an act already repealed by the enactment of the Revised Statutes. That reference was to serve as a guideline for the scope and applicability of the 1874 act; unfortunately it only provided greater confusion surrounding the actual effect of the 1874 act. This chapter replaces the exclusionary language of the 1874 act by specifically identifying the appropriate section and its applicability to a specific class of vessels in section 10501.

Chapter 107 deals with the effects of deceased seamen. The chapter provides the duties and procedures to be following by masters and consular officers of the United States in the event of a death of a seaman during a voyage. Money, property and wages of the deceased seamen are to be disposed of, in accordance with this chapter, by the consular officers. When a seaman dies in the United States and is entitled at death to claim money, property or wages, such effects shall be delivered to a district court of the United States. The property may be sold under the direction of the district court and any proceeds shall be held along with the wages of the seaman. Delivery of the property and wages to claimants is provided for in the statute, as is treatment of unclaimed money, property and wages.

Chapter 109 deals with proceedings on unseaworthiness and allows for examination both of the vessel and of the crew for unfitness or unsuitability. Section 10902 details the specific features (crew, hull, equipment, tackle, machinery, apparel, furniture, provisions of food or water, and stores) necessary to proceed on an intended voyage, the sufficiency of which should be iquired into prior tended voyage, the sufficiency of which should be inquired into prior ficers and crew members with grounds to complain to a Coast Guard officer or appropriate official. That official shall then examine the merits of the compliant through shipboard inspection and submit a report of findings. This chapter authorizes the examination of the vessel and the power to deny the vessel permission to proceed with its voyage.

Chapter 111 provides for the protection and relief of seamen with regard to accommodations, health care, wages and clothing. The chapter provides minimum standards for the seaman's berth, as well as the right of a destitute seaman to sufficient clothing and sustenance and passage back to the United States. If a U.S. vessel is sold in a foreign country, while on a voyage, the master must pay the wages due to the seamen and provide them with a means or passage to their port of origin. Consular officers are empowered by this chapter to review and judge upon the wage complaints of a seaman upon discharge in a foreign country. Treatment of wages with regard to State or Federal withholding taxes is provided for in

this chapter, as is the seaman's right to wages and the protection of these wages necessay for the support of their spouse or minor children.

In section 11109, as in other sections of this title, the Committee has taken care to remove gender-based distinctions present in existing law.

Chapter 113 details the logbook and entry requirements with which the master of a vessel must comply while on voyages as specified in section 11301. The manner of entries and penalties for failure to make these entries are treated as well.

Chapter 115 provides the manner by which specific offenses are to be treated or penalized when committed by a seaman lawfully engaged. Specific offenses are listed in section 11501, as well as penalties for these offenses. The Committee revised certain penalties so as to reflect modern day concepts of humane punishment. For example, arcane provisions allowing for confinement of willfully disobedient seamen by the use of leg irons and the distribution of bread and water have been removed. Rather, confinement to quarters and a diet of 1,000 calories per day have replaced these antiquated penalties. Procedures for the entry and treatment of offenses and penalties in a ship's log book are set forth in this chapter as are the duties of the consular officers when a ship has docked at foreign ports. The imposition of forfeitures and their court supervised disposal is dealt with in this chapter. The chapter also provides a ban on the carrying of sheath knives by a seaman and sets forth the procedures for the surrender of offending officers by the master.

PART H—IDENTIFICATION OF VESSELS

Part H consists of two chapters, one dealing with documents of vessels and the other with the numbering of undocumented vessels. Chapter 121 repeats the Vessel Documentation Act of 1980 (Public Law 96-594; title I) without any substantive change in existing law. The citizenship provisions in section 12104, the "Vessels eligible for documentation" section, remain unchanged, but the Committee wishes to note the conflicting interpretations of the corporate citizenship requirements of section 12104(4) of this bill as it relates to section 2 of the Shipping Act of 1916. Such ambiguity merits further attention. In the interest of expedition, we do not now address this issue, but intend to do so. Chapter 123 entitled "Numbering of Undocumented Vessels" provides the rules governing the numbering requirements for undocumented vessels, number and safety certificates and information relevant to the standard numbering system.

PART I—STATE BOATING SAFETY PROGRAMS

Part I deals with the State programs originally enacted in the Federal Boat Safety Act of 1971. Chapter 131 of part I, entitled Recreational Boating Safety, encompasses funding of these state program and the maintenance of the National Recreational Boating Safety and Facilities Improvement Fund, as well as the National Boating Safety Advisory Council.

MISCELLANEOUS PROVISIONS AND REPEALS

The final two provisions of this bill, as reported, cover miscellanous matters involving the effect of this consolidation upon enactment, and lists the numerous statutes to be repealed by the bill. In S. 46 as originally introduced, the repeal tables included Public Law 89-99, a 1965 law concerning oceanographic research vessels. The Committee has decided not to repeal this law, however, because certain of its provisions pertain to parts of title 46 not consolidated in the new subtitle II.

CHANGES IN EXISTING LAW

S. 46, as reported, contains a detailed schedule of provisions of law that would be repealed in their entirety by enactment of the bill. Therefore, the Committee believes that it would both expedite the business of the Senate and result in desirable economies to omit the comparative print of the bill showing proposed changes to existing law.

COMPARATIVE TABLE

Reference for S. 46

KEY: R—Repealed without replacement
N—Not included in revision, not repealed by bill
P—Partially repealed without replacement
O—No corresponding section in former title 46

O	6302
O	7305
O	7702
O	10320
14 U.S.C. 1	2101
33 U.S.C. 361, 362, 365	6101
33 U.S.C. 363	R
33 U.S.C. 364	2107
33 U.S.C. 366	6307
33 U.S.C. 367	2304
33 U.S.C. 368	2304
46 U.S.C. 2	2103
46 U.S.C. 3	N
46 U.S.C. 4	2105
46 U.S.C. 7	2107
46 U.S.C. 8	2108
46 U.S.C. 9	3316
46 U.S.C. 13	N
46 U.S.C. 14	N
46 U.S.C. 41	N
46 U.S.C. 42	N
46 U.S.C. 57	N
46 U.S.C. 59	N
46 U.S.C. 65(3)	2101(4)
46 U.S.C. 65	12101
46 U.S.C. 65a	12103
46 U.S.C. 65b	12104
46 U.S.C. 65c	12105
46 U.S.C. 65d	12106
46 U.S.C. 65e	12107
46 U.S.C. 65f	12108
46 U.S.C. 65g	12109
46 U.S.C. 65h	12110
46 U.S.C. 65i	12111
46 U.S.C. 65j	12112
46 U.S.C. 65k	12113
46 U.S.C. 65l	12114
46 U.S.C. 65m	12115
46 U.S.C. 65n	12123
46 U.S.C. 65o	12116
46 U.S.C. 65p	12117
46 U.S.C. 65q	12118
46 U.S.C. 65r	12119
46 U.S.C. 65s	12120
46 U.S.C. 65t	12121
46 U.S.C. 65u	2107
46 U.S.C. 65u	12123
46 U.S.C. 65v	2104
46 U.S.C. 65w	12102
46 U.S.C. 71–72	N
46 U.S.C. 75	N
46 U.S.C. 77	N
46 U.S.C. 81	N
46 U.S.C. 82	2115
46 U.S.C. 83–83k	N
46 U.S.C. 86–86i	N
46 U.S.C. 88–88g	N
46 U.S.C. 91–91a	N
46 U.S.C. 93–94	N
46 U.S.C. 96–98	N
46 U.S.C. 100–102	N
46 U.S.C. 104	N
46 U.S.C. 110–113	N
46 U.S.C. 121–135	N
46 U.S.C. 141–146	N
46 U.S.C. 151–162	R
46 U.S.C. 163	N
46 U.S.C. 170	2106
46 U.S.C. 170	P
46 U.S.C. 170a	R
46 U.S.C. 170b	R
46 U.S.C. 181–196	N
46 U.S.C. 201	11301
46 U.S.C. 202	11302
46 U.S.C. 203	11303
46 U.S.C. 211	8501(a)
46 U.S.C. 212	8501(b)
46 U.S.C. 213	8501(c)
46 U.S.C. 214	7101
46 U.S.C. 214(c)	7106
46 U.S.C. 215	8502
46 U.S.C. 216	9301
46 U.S.C. 216(b)	2101(4)
46 U.S.C. 216a	9302
46 U.S.C. 216b	9303
46 U.S.C. 216b(e)	9304
46 U.S.C. 216b	9305
46 U.S.C. 216c	9303
46 U.S.C. 216d	9305
46 U.S.C. 216e	9308
46 U.S.C. 216e(d)	2107
46 U.S.C. 216e(e)	2106
46 U.S.C. 216f	9302
46 U.S.C. 216g	9306
46 U.S.C. 216h	9307
46 U.S.C. 216i	R
46 U.S.C. 221	8103
46 U.S.C. 222	8101
46 U.S.C. 223	8301
46 U.S.C. 224	7101
46 U.S.C. 224	8101
46 U.S.C. 224a	8303
46 U.S.C. 224a	8304
46 U.S.C. 224a(2)	7111
46 U.S.C. 225	7106
46 U.S.C. 225	7109
46 U.S.C. 225	7113
46 U.S.C. 226	7101
46 U.S.C. 226	7106
46 U.S.C. 227	R
46 U.S.C. 228	7101
46 U.S.C. 228	7106
46 U.S.C. 229	7101

46 U.S.C. 229	7106
46 U.S.C. 229a	7101
46 U.S.C. 229a	7103
46 U.S.C. 229b	7101
46 U.S.C. 229b	7103
46 U.S.C. 229c	7106
46 U.S.C. 229c	7108
46 U.S.C. 229c	7318
46 U.S.C. 229d	R
46 U.S.C. 229e	7105
46 U.S.C. 229f	7110
46 U.S.C. 229g	7103
46 U.S.C. 229g	7318
46 U.S.C. 229h	R
46 U.S.C. 230	7112
46 U.S.C. 231	7105
46 U.S.C. 232	7110
46 U.S.C. 233	7109
46 U.S.C. 234	3315
46 U.S.C. 235	8104
46 U.S.C. 236	8103
46 U.S.C. 237–238	R
46 U.S.C. 239	6101
46 U.S.C. 239	6301
46 U.S.C. 239	7703
46 U.S.C. 239(d)	6303
46 U.S.C. 239(e)	6304
46 U.S.C. 239(e)	7705
46 U.S.C. 239(f)	6304
46 U.S.C. 239(g)	6305
46 U.S.C. 239(g)	7701
46 U.S.C. 239(i)	6306
46 U.S.C. 239(j)	6301
46 U.S.C. 239(k)	6305
46 U.S.C. 239a	7302
46 U.S.C. 239a(a)	7503(a) & 7704(a)
46 U.S.C. 239a(b)	2101(3)
46 U.S.C. 239b(a)	7503(b)
46 U.S.C. 239b(b)	7704(b)
46 U.S.C. 240	7703
46 U.S.C. 241	8304
46 U.S.C. 242	7101
46 U.S.C. 242	7102
46 U.S.C. 242	8302
46 U.S.C. 243	7101
46 U.S.C. 243	7104
46 U.S.C. 243	7107
46 U.S.C. 243	7108
46 U.S.C. 244	7101
46 U.S.C. 244	7105
46 U.S.C. 245	8302
46 U.S.C. 246	8302
46 U.S.C. 246(c)	7703
46 U.S.C. 247	7101
46 U.S.C. 248	8302
46 U.S.C. 249	N
46 U.S.C. 249a	N
46 U.S.C. 249b	N
46 U.S.C. 249c	N
46 U.S.C. 251–251b	N
46 U.S.C. 262	N
46 U.S.C. 274	N
46 U.S.C. 277	N
46 U.S.C. 289–289b	N
46 U.S.C. 291–293a	N
46 U.S.C. 306–316	N
46 U.S.C. 319–328	N
46 U.S.C. 331	2110
46 U.S.C. 336	N
46 U.S.C. 354–355	N
46 U.S.C. 361	3101(4)
46 U.S.C. 361	3101(23)
46 U.S.C. 362	2109
46 U.S.C. 362	3301(1)
46 U.S.C. 362	3314
46 U.S.C. 362(a)	3303
46 U.S.C. 362(b)	3504
46 U.S.C. 362(c)	3505
46 U.S.C. 363	2109
46 U.S.C. 364	8502
46 U.S.C. 365	R
46 U.S.C. 366	3306
46 U.S.C. 367	2304
46 U.S.C. 367	3101(21)
46 U.S.C. 367	3301(2)
46 U.S.C. 367	3302
46 U.S.C. 368	2304
46 U.S.C. 369	3306
46 U.S.C. 369	3316
46 U.S.C. 369(b)	3503
46 U.S.C. 369(e)	3318
46 U.S.C. 372	2103
46 U.S.C. 375	2303
46 U.S.C. 375	3306
46 U.S.C. 382b	2111
46 U.S.C. 382b	2112
46 U.S.C. 390	3101(9)
46 U.S.C. 390	3301(5)
46 U.S.C. 390	3302
46 U.S.C. 390(b)	3101(22)
46 U.S.C. 390(d)	2101(4)
46 U.S.C. 390(e)	3101(2)
46 U.S.C. 390(f)	3101(15)
46 U.S.C. 390(g)	3101(18)
46 U.S.C. 390(h)	3101(16)
46 U.S.C. 390(i)	2101(17)
46 U.S.C. 390a	3301(5)
46 U.S.C. 390a	3301(7)
46 U.S.C. 390a	3301(10)
46 U.S.C. 390a	3305
46 U.S.C. 390a	3307
46 U.S.C. 390a(b)	7114
46 U.S.C. 390b	3306
46 U.S.C. 390c	3303
46 U.S.C. 390c	3309
46 U.S.C. 390c	3311
46 U.S.C. 390c	3313
46 U.S.C. 390d	2106
46 U.S.C. 390d	3318
46 U.S.C. 390d	8904
46 U.S.C. 390e–390g	R
46 U.S.C. 391	3301(1)
46 U.S.C. 391	3301(6)
46 U.S.C. 391	3305
46 U.S.C. 391(c)	3101(12)
46 U.S.C. 391(e)	3302
46 U.S.C. 391a	3301(3)
46 U.S.C. 391a	3702
46 U.S.C. 391a(2)(A)	3701(4)
46 U.S.C. 391a(2)(B)	3701(6)
46 U.S.C. 391a(2)(C)	3701(7)
46 U.S.C. 391a(2)(D)	3701(9)
46 U.S.C. 391a(2)(E)	3701(11)

46 U.S.C. 391a(2)(F)	3701(12)
46 U.S.C. 391(a)(2)(G)	3101(13)
46 U.S.C. 391a(2)(H)	3701(1)
46 U.S.C. 391(a)(2)(I)	2101(4)
46 U.S.C. 391a(2)(J)	3701(14)
46 U.S.C. 391a(2)(K)	3701(16)
46 U.S.C. 391a(2)(L)	3701(17)
46 U.S.C. 391a(2)(M)	3701(15)
46 U.S.C. 391a(2)(N)	3701(3)
46 U.S.C. 391a(2)(O)	3701(13)
46 U.S.C. 391a(2)(P)	3701(8)
46 U.S.C. 391a(2)(Q)	3701(0)
46 U.S.C. 391a(2)(R)	3701(5)
46 U.S.C. 391a(2)(S)	3701(2)
46 U.S.C. 391a(3)	2301
46 U.S.C. 391a(3)	3101(24)
46 U.S.C. 391a(3)	3702(a)
46 U.S.C. 391a(3)	3303
46 U.S.C. 391a(4)	2109
46 U.S.C. 391a(6)	3703
46 U.S.C. 391a(7)	3708
46 U.S.C. 391a(7)(N)	3709
46 U.S.C. 391a(8)	3309
46 U.S.C. 391a(8)	3313
46 U.S.C. 391a(8)(A)	3710
46 U.S.C. 391a(8)(A)	3712
46 U.S.C. 391a(8)(B)	3711
46 U.S.C. 391a(8)(B)	3712
46 U.S.C. 391a(8)(F)	3710
46 U.S.C. 391a(9)	9102
46 U.S.C. 391a(10)	8703
46 U.S.C. 391a(10)	9101
46 U.S.C. 391a(10)	7317
46 U.S.C. 391a(11)	9101
46 U.S.C. 391a(12)	3703
46 U.S.C. 391a(13)	3713
46 U.S.C. 391a(14)(c)	2106
46 U.S.C. 391a(14)	2107
46 U.S.C. 391a(14)	3718
46 U.S.C. 391a(15)	3714
46 U.S.C. 391a(16)	3717
46 U.S.C. 391a(17)	3715
46 U.S.C. 391a(18)	3716
46 U.S.C. 392	3305
46 U.S.C. 392	3306
46 U.S.C. 392	3307
46 U.S.C. 393	R
46 U.S.C. 395	3301(4)
46 U.S.C. 395	3305
46 U.S.C. 395	3311
46 U.S.C. 395(d)	3309
46 U.S.C. 395(e)	3101(20)
46 U.S.C. 397	R
46 U.S.C. 398	3318
46 U.S.C. 399	3309
46 U.S.C. 399	3311
46 U.S.C. 399	3314
46 U.S.C. 400	3312
46 U.S.C. 402	R
46 U.S.C. 403	3318
46 U.S.C. 404	3101(2)
46 U.S.C. 404	3301(5)
46 U.S.C. 404	3302
46 U.S.C. 404	3306
46 U.S.C. 404	3307
46 U.S.C. 404-1(1)	3101(7)
46 U.S.C. 404-1	3301(9)
46 U.S.C. 404-1	3305
46 U.S.C. 404-1	3307
46 U.S.C. 404-1	3501
46 U.S.C. 404-1	8301
46 U.S.C. 404-1(4)	3101(10)
46 U.S.C. 405	3301(1)
46 U.S.C. 405	3305
46 U.S.C. 405(b)	8104
46 U.S.C. 405(b)(1)(A)	2101
46 U.S.C. 405(b)(2)	8902
46 U.S.C. 405(b)(3)	8903
46 U.S.C. 406	3305
46 U.S.C. 407	3305
46 U.S.C. 407	3318
46 U.S.C. 408	3305
46 U.S.C. 408	3306
46 U.S.C. 408	3318
46 U.S.C. 409	R
46 U.S.C. 410	3318
46 U.S.C. 411	3306
46 U.S.C. 412	3306
46 U.S.C. 413	3318
46 U.S.C. 414	3310
46 U.S.C. 414	7502
46 U.S.C. 416	2104
46 U.S.C. 416	3306
46 U.S.C. 420	3302
46 U.S.C. 420	3306
46 U.S.C. 435	3308
46 U.S.C. 435	3313
46 U.S.C. 436	2106
46 U.S.C. 436	3318
46 U.S.C. 441(1)	3101(6)
46 U.S.C. 441(2)	3101(19)
46 U.S.C. 442	3302
46 U.S.C. 443	R
46 U.S.C. 444	8701
46 U.S.C. 445	2114
46 U.S.C. 445	3306
46 U.S.C. 451	3501
46 U.S.C. 452	3501
46 U.S.C. 453	2114
46 U.S.C. 454-456	N
46 U.S.C. 457	N
46 U.S.C. 458	R
46 U.S.C. 459	3306
46 U.S.C. 460	3502
46 U.S.C. 460a	3502
46 U.S.C. 461	3502
46 U.S.C. 462	2106
46 U.S.C. 462	3501
46 U.S.C. 462	3502
46 U.S.C. 466a	3901
46 U.S.C. 466b	3902
46 U.S.C. 467	R
46 U.S.C. 470	8102
46 U.S.C. 471	8102
46 U.S.C. 473	3306
46 U.S.C. 477-479	3306
46 U.S.C. 480	2301
46 U.S.C. 481	3306
46 U.S.C. 481(a)	2101
46 U.S.C. 481(c)	2106
46 U.S.C. 481(d)	3318
46 U.S.C. 482-483	3306
46 U.S.C. 489	3306
46 U.S.C. 491	N

46 U.S.C. 492	R
46 U.S.C. 494-495	R
46 U.S.C. 497	2106
46 U.S.C. 497	2303
46 U.S.C. 497	8502
46 U.S.C. 498	R
46 U.S.C. 526	3101(26)
46 U.S.C. 526a	R
46 U.S.C. 526e	4102
46 U.S.C. 526g	4102
46 U.S.C. 526h	4103
46 U.S.C. 526i	4102
46 U.S.C. 526j	4102
46 U.S.C. 526k	R
46 U.S.C. 526n	R
46 U.S.C. 526o	2106
46 U.S.C. 526o	4106
46 U.S.C. 526p	2107
46 U.S.C. 526p	3306
46 U.S.C. 526p	4104
46 U.S.C. 526r-526s	R
46 U.S.C. 526u	4101
46 U.S.C. 531-534	N
46 U.S.C. 542a	R
46 U.S.C. 543	2104
46 U.S.C. 544-546	R
46 U.S.C. 561-562	R
46 U.S.C. 563	11110
46 U.S.C. 564	10301
46 U.S.C. 565	10305 & 10302
46 U.S.C. 566	10301
46 U.S.C. 567	10321
46 U.S.C. 568	10321
46 U.S.C. 569	10309
46 U.S.C. 570	10308
46 U.S.C. 571	10321
46 U.S.C. 572-573	R
46 U.S.C. 574	10301
46 U.S.C. 574	10501
46 U.S.C. 574	10502
46 U.S.C. 575	10509
46 U.S.C. 576	10510
46 U.S.C. 577	10307
46 U.S.C. 578	11107
46 U.S.C. 591	10313(a)
46 U.S.C. 592	10313
46 U.S.C. 593	10313(b)
46 U.S.C. 594	10313(c)
46 U.S.C. 595	10313(d)
46 U.S.C. 596	10313
46 U.S.C. 596	10504
46 U.S.C. 597	10313
46 U.S.C. 597	10504
46 U.S.C. 598	10313
46 U.S.C. 598	10505
46 U.S.C. 598	10504
46 U.S.C. 599	10314
46 U.S.C. 599	10315
46 U.S.C. 599(g)	10316
46 U.S.C. 599	10505
46 U.S.C. 599	10506
46 U.S.C. 600	10317
46 U.S.C. 601	11108
46 U.S.C. 601	11109
46 U.S.C. 602	11111
46 U.S.C. 603-608	R
46 U.S.C. 611	R
46 U.S.C. 621	10701
46 U.S.C. 621	10702
46 U.S.C. 622	10703
46 U.S.C. 623	10711
46 U.S.C. 624	10704
46 U.S.C. 624	10705
46 U.S.C. 625	10706
46 U.S.C. 626	10707
46 U.S.C. 627	10709
46 U.S.C. 628	10709
46 U.S.C. 628	10710 & 8411
46 U.S.C. 641	10310
46 U.S.C. 642	10310
46 U.S.C. 643	8701
46 U.S.C. 643	8702
46 U.S.C. 643	10311
46 U.S.C. 643	10503
46 U.S.C. 643	10102(c)
46 U.S.C. 643(a)	7302
46 U.S.C. 643(a)	7303
46 U.S.C. 643(a)	7318
46 U.S.C. 643(b)	7304
46 U.S.C. 643(c)	7302
46 U.S.C. 643(c)	10306
46 U.S.C. 643(e)	10311
46 U.S.C. 643(f)	7319
46 U.S.C. 643(f)	7502
46 U.S.C. 643(h)	7501
46 U.S.C. 643(l)	7316
46 U.S.C. 643(l)	10102
46 U.S.C. 643a	8701
46 U.S.C. 643b	2113
46 U.S.C. 644	10312
46 U.S.C. 645-646	R
46 U.S.C. 651	R
46 U.S.C. 652	10312
46 U.S.C. 653	10901
46 U.S.C. 653	10902
46 U.S.C. 653	10902(a)
46 U.S.C. 654	10901
46 U.S.C. 654	10903
46 U.S.C. 655	10901
46 U.S.C. 655	10904
46 U.S.C. 656	10901
46 U.S.C. 656	10905
46 U.S.C. 657	10905
46 U.S.C. 658	10901
46 U.S.C. 658	10906
46 U.S.C. 658	10908
46 U.S.C. 659	10903
46 U.S.C. 660	10903
46 U.S.C. 660-1	11101
46 U.S.C. 660a	3305
46 U.S.C. 660a	3308
46 U.S.C. 660b	3308
46 U.S.C. 661	10321
46 U.S.C. 662	10902(b)
46 U.S.C. 663	R
46 U.S.C. 664	10907
46 U.S.C. 665	10321
46 U.S.C. 665	11106
46 U.S.C. 666	11102
46 U.S.C. 667	11102
46 U.S.C. 668-669	R
46 U.S.C. 670	11103

46 U.S.C. 671	11103
46 U.S.C. 672	8701
46 U.S.C. 672	8702
46 U.S.C. 672(a)	2101
46 U.S.C. 672(b)	7306
46 U.S.C. 672(b)	7307
46 U.S.C. 672(b)	7308
46 U.S.C. 672(b)	7309
46 U.S.C. 672(c)	7315
46 U.S.C. 672(f)	7312
46 U.S.C. 672(g)	7313
46 U.S.C. 672(g)	7314
46 U.S.C. 672(h)	8101
46 U.S.C. 672(i)	7302
46 U.S.C. 672(j)	2106
46 U.S.C. 672a	8103
46 U.S.C. 673	8104
46 U.S.C. 674-677	N
46 U.S.C. 678	11104
46 U.S.C. 679	11104
46 U.S.C. 682	10318
46 U.S.C. 682	10510
46 U.S.C. 683	10318
46 U.S.C. 683	10507
46 U.S.C. 684	11105
46 U.S.C. 685	11106
46 U.S.C. 688	N
46 U.S.C. 689	2103
46 U.S.C. 690	8103
46 U.S.C. 691	Sec. 2
46 U.S.C. 692	R
46 U.S.C. 701	11501
46 U.S.C. 702	11502
46 U.S.C. 703	11503
46 U.S.C. 705	11504
46 U.S.C. 706	11505
46 U.S.C. 707	10319
46 U.S.C. 709	R
46 U.S.C. 710	11506
46 U.S.C. 711	R
46 U.S.C. 712	11507
46 U.S.C. 713	10101
46 U.S.C. 713	10303
46 U.S.C. 713	10304
46 U.S.C. 721-731	N
46 U.S.C. 738-738d	N
46 U.S.C. 740-752	N
46 U.S.C. 761-767	N
46 U.S.C. 781-790	N
46 U.S.C. 801-804	N
46 U.S.C. 808	N
46 U.S.C. 811-826	N
46 U.S.C. 828-840	N
46 U.S.C. 841a-845b	N
46 U.S.C. 847-848	N
46 U.S.C. 861-869	N
46 U.S.C. 871-872	N
46 U.S.C. 875-877	N
46 U.S.C. 881	3316
46 U.S.C. 882	3304
46 U.S.C. 883-885	N
46 U.S.C. 887-889	N
46 U.S.C. 891-891x	N
46 U.S.C. 911	N
46 U.S.C. 921-927	N
46 U.S.C. 941	N
46 U.S.C. 951-954	N
46 U.S.C. 961	N
46 U.S.C. 971-975	N
46 U.S.C. 981-984	N
46 U.S.C. 1011-1014	N
46 U.S.C. 1101	N
46 U.S.C. 1111-1125a	N
46 U.S.C. 1126-1	N
46 U.S.C. 1131	N
46 U.S.C. 1132	8103
46 U.S.C. 1132(a)	7102
46 U.S.C. 1132(g)	8302
46 U.S.C. 1151-1161	N
46 U.S.C. 1171-1185	N
46 U.S.C. 1191-1206	N
46 U.S.C. 1211-1213	N
46 U.S.C. 1222-1228	N
46 U.S.C. 1241-1248	N
46 U.S.C. 1271-1276	N
46 U.S.C. 1279-1295e	N
46 U.S.C. 1295f(c)	3101(5)
46 U.S.C. 1295f(c)	3301(8)
46 U.S.C. 1295f(c)	3306
46 U.S.C. 1295f(c)	3307
46 U.S.C. 1295g	N
46 U.S.C. 1300-1315	N
46 U.S.C. 1351-1364	R
46 U.S.C. 1451	R
46 U.S.C. 1452	3101(3)
46 U.S.C. 1452	4106
46 U.S.C. 1452	2102
46 U.S.C. 1452(1)(A)	3101(14)
46 U.S.C. 1452(1)(B)	3101(14)
46 U.S.C. 1452(1)(C)	3101(25)
46 U.S.C. 1452(3)	12101(3)
46 U.S.C. 1452(5)	3101(11)
46 U.S.C. 1452(8)	3101(1)
46 U.S.C. 1452(9)	2101(4)
46 U.S.C. 1452(10)	2102(3)
46 U.S.C. 1452(11)	2102(1)
46 U.S.C. 1452(12)	2102(5)
46 U.S.C. 1452(13)	2102(6)
46 U.S.C. 1452(14)	2102(4)
46 U.S.C. 1453	4105
46 U.S.C. 1453	4301
46 U.S.C. 1454	4302
46 U.S.C. 1455	4302
46 U.S.C. 1456	4302(a)(3)
46 U.S.C. 1457	4303
46 U.S.C. 1458	4304
46 U.S.C. 1459	4305
46 U.S.C. 1460	4305
46 U.S.C. 1461	4306
46 U.S.C. 1461	4310
46 U.S.C. 1461(d)	2301
46 U.S.C. 1461(d)	2302
46 U.S.C. 1461(e)	8901
46 U.S.C. 1461(f)	8903
46 U.S.C. 1462	4307
46 U.S.C. 1463	4308
46 U.S.C. 1464	4309
46 U.S.C. 1464(g)	4302
46 U.S.C. 1465	2304
46 U.S.C. 1466	12301
46 U.S.C. 1467	12302
46 U.S.C. 1468	12303
46 U.S.C. 1469	12304
46 U.S.C. 1470	12305

46 U.S.C. 1471	12306
46 U.S.C. 1472	12307
46 U.S.C. 1473	12308
46 U.S.C. 1474	13101
46 U.S.C. 1475	13102
46 U.S.C. 1476	13103
46 U.S.C. 1477	13104
46 U.S.C. 1478	13105
46 U.S.C. 1479a	13106
46 U.S.C. 1480	13107
46 U.S.C. 1481	13108
46 U.S.C. 1482	13109
46 U.S.C. 1483	2302
46 U.S.C. 1483	4310
46 U.S.C. 1484	4310
46 U.S.C. 1484(b)	2106
46 U.S.C. 1484(b)	2302
46 U.S.C. 1484(c)	2107
46 U.S.C. 1485	2305
46 U.S.C. 1485	4310
46 U.S.C. 1486	6101
46 U.S.C. 1487	R
46 U.S.C. 1488	4302
46 U.S.C. 1489	4310
46 U.S.C. 1501-1508	N
46 U.S.C. 1601-1610	N
P.L. 97-322 Sec. 208(a)	8101
P.L. 97-322 Sec. 208(b)	Sec. 2
P.L. 97-136	3316

○

Calendar No. 86

98TH CONGRESS, 1st Session } SENATE { REPORT No. 98-57

CONSUMER PRODUCT SAFETY COMMISSION AUTHORIZATIONS

APRIL 12, 1983.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 861]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 861) to amend the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to provide authorization of appropriations, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF BILL

The purpose of this legislation is to authorize appropriations of $35 million per year for the activities of the Consumer Product Safety Commission (CPSC) for each of the next 2 fiscal years, fiscal years 1984 and 1985. In addition, S. 861 makes four clarifying amendments to statutes administered by the agency.

BACKGROUND AND NEEDS

Congress created the CPSC in 1972 in an attempt to reduce injuries and deaths in the United States due to unsafe consumer products. Under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 et seq.), the Commission has flexible authority to set safety standards for a broad range of consumer products, ban products entirely from the marketplace when standards would be inadequate to protect the public, require product recalls, and engage in research and public education activities. The CPSC also enforces the Federal Hazardous Substances Act, (15 U.S.C. 1261 et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Poison Prevention Packaging Act (15 U.S.C. 1471 et seq.), and the Refrigerator Safety Act (15 U.S.C. 1211 et seq.).

11-010 O

S263-9

The Consumer Product Safety Amendments of 1981, enacted as part of budget reconciliation legislation (Public Law 97–37), reauthorized the CPSC for fiscal years 1982 and 1983 and made substantial changes in the agency's mandate. Most importantly, the 1981 amendments: (1) improved the CPSC's exercise of its authority to promulgate product safety standards and bans; (2) provided additional protection from public disclosure for confidential business information and unverified product hazard information; and (3) created a Chronic Hazard Advisory Panel to advise the CPSC in regulating consumer products posing hazards of cancer, birth defects, and gene mutations.

Since the current authorization for the CPSC will expire on September 30, 1983, at the end of the current fiscal year, Congress must enact legislation this year to extend this authorization.

Legislative History

A reauthorization and oversight hearing on the CPSC was held on February 25, 1983. Testifying at the hearing were the Chairman and the Commissioners of the CPSC, representatives of trade organizations and individual businesses, consumer groups and academic.

Following the hearing, S. 861 was introduced by Senators Kasten and Ford on March 18, 1983. On March 22, 1983, the Committee ordered S. 861 favorably reported without amendment.

Summary of Bill

S. 861, as reported, would amend the Consumer Product Safety Act and the Flammable Fabrics Act to:

1. Provide that the CPSC can disclose information about product hazards to CPSC contractors when necessary in connection with the contractual work the contractors are performing for the CPSC.
2. Clarify the CPSC's authority to assess civil penalties through administrative adjudications as well as through suits in U.S. district courts;
3. Relax the conflict-of-interest criteria for members of the CPSC's Chronic Hazard Advisory Panels;
4. Eliminate one of the three methods for manufacturers of products within the jurisdiction of the Flammable Fabrics Act to certify compliance with that act; and
5. Authorize appropriations of $35 million per year for fiscal years 1984 and 1985.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., April 5, 1983.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the

attached cost estimate for S. 861, the Consumer Product Safety Commission Authorization Act of 1983, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, March 22, 1983.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

April 5, 1983.

1. Bill number: S. 861.

2. Bill title: The Consumer Product Safety Commission Authorization Act of 1983.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 22, 1983.

4. Bill purpose: The bill would extend for two years the authorizations for the Consumer Product Safety Act.

5. Estimated cost to the Federal Government:

	Millions
Authorization level—Consumer Product Safety Act (32(a)):	
Fiscal year:	
1984	-----
1985	$35
1986	35
1987	-----
1988	-----
Estimated outlays—Consumer Product Safety Act (32(a)):	
Fiscal year:	
1984	-----
1985	34
1986	35
1987	1
1988	-----

The costs of this bill fall within function 550.

Basis for Estimate: All authorization levels are stated in the bill. Authorized amounts are assumed to be fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of appropriate recent program data.

6. Estimated cost to State and local governments: The Congressional Budget Office has determined that the budgets of State and local government would not be affected directly by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Hinda Chakind.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

S. 861, as reported, would reauthorize the CPSC for fiscal years 1984 and 1985 and make four clarifying amendments to statutes administered by the agency. These amendments are generally administrative in nature and would not significantly affect the number of persons within the CPSC's jurisdiction, increase the economic effect of regulation by the agency, or adversely affect the privacy of persons regulated.

The amendments contained in section 2 of S. 861, which would permit the CPSC to disclose information about product hazards to CPSC contractors without first requiring the agency to conform to procedures to protect confidential information, are unlikely to compromise significantly the confidentially of such information, because contractors are subject to the same restrictions on any subsequent public disclosure of information as apply to CPSC officers and employees. See 15 U.S.C. 2055(d)(2). The amendments contained in section 6 of S. 861, which would eliminate one of the three presently existing methods for manufacturers to certify compliance with the Flammable Fabrics Act, may result in a minor increase in such burdens for manufacturers.

Section-by-Section Analysis

SECTION 1.—SHORT TITLE

Section 1 of the bill provides that this act may be cited as the "Consumer Product Safety Commission Authorization Act of 1983."

SECTION 2.—DISCLOSURE TO CONTRACTORS

1. Background

Sections 6(a)(2) through 6(a)(6) of the CPSA (15 U.S.C. 2055(a)(2)(6)). which were enacted as part of the CPSC's 1981 authorization legislation, provide substantive and procedural protections for trade secrets and certain other confidential business information reported to or otherwise obtained by the CPSC.

Section 6(a)(2) provides that such business information shall be considered confidential and shall not be disclosed. Subsections 6(a)(3) through (6) further provide that when a manufacturer or private labeler designates information as confidential, the CPSC, if it determines that the information is not confidential, may not disclose the information until the CPSC has both notified the manufacturer or private labeler of the CPSC's intent to disclose the information and given the manufacturer or private labeler not less than 10 days from the date of the receipt of the notification to bring an action in U.S. district court to restrain disclosure of the information.

Section 6(a)(8) provides that subsections (a)(2) through (a)(6) of section 6 do not prohibit the disclosure of information to "officers or employees" of the CPSC.

The CPSC has expressed concern that section 6(a)(8) of the CPSA does not clearly provide that the CPSC may disclose product hazard information, essential to a CPSC contractor's research or investigation, to the contractor.

2. Section as Reported

Section 2 of S. 861 clarifies that the CPSC may disclose product hazard information to CPSC contractors. Thus, section 2 adds "representatives of the Commission (including contractors)" to those groups specifically exempted from the predisclosure provisions by section 6(a)(8) of the CPSA.

The Committee expects that this amendment will permit the disclosure of CPSC-held information needed by agency contractors for compliance with their contract. Contractors remain bound by CPSA section 6(d)(2), which requires that contractors comply with the CPSA section 6 disclosure provisions in making any subsequent disclosure of information to the general public.

SECTION 3.—CIVIL PENALTIES

1. Background

Section 20 of the CPSA (15 U.S.C. 2069) provides that the CPSC may seek civil penalties, among other things, for a company's failure to comply with the act's reporting requirements, a violation of the CPSC's rules or orders, or a company's failure to disclose information requested by the CPSC. Between 1974 and August 1981, the CPSC initiated 30 administrative actions successfully assessing civil penalties under this section.

In the 1981 amendments to the CPSA, Congress amended section 20 to require that the CPSC consider several factors relevant to the assessment of a civil penalty prior to determining the amount the CPSC would assess. (See section 1206 of Public Law 97-35.) This amendment was not intended to disturb otherwise the Commission's historic practice of assessing penalties administratively.

Nevertheless, in *Advance Machine Company* v. *CPSC*, 666 F.2d 1116 (8th Cir., 1981), the United States Court of Appeals for the 8th Circuit held that Congress, in the 1981 amendments to the CPSA, implied that penalties were to be assessed only by the court upon application by the CPSC, and not through administrative adjudication within the CPSC.

2. Section as Reported

Section 3 of S. 861 is intended to clarify that the CPSC may, in its discretion, choose between internal administrative and external judicial procedures in seeking civil penalty assessments, and it sets forth additional procedures for the CPSC to follow in either instance.

Section 3 adds a new subsection (c) to section 20 of the CPSA providing that, in its discretion, the CPSC may either assess a civil penalty administratively (after an opportunity for a hearing in accordance with section 554 of title 5, United States Code) or bring an action for assessment of a civil penalty in United States District Court.

Section 3 also adds a new subsection (e) to section 20 of the CPSA's further providing that if the CPSC assesses a civil penalty administratively, the person adversely affected by the order may seek review within 30 days in the appropriate U.S. Court of Appeals. Upon review, the CPSC's order shall not be affirmed by the Court of Appeals

unless the order is supported by substantial evidence. Finally, if the CPSC assesses a civil penalty, and if either (1) the person adversely affected by the assessment of the penalty has failed to seek review within the prescribed 30 days following issuance of the order, or (2) the agency's order is upheld in any subsequent court review of that order, the CPSC may file a civil action in U.S. district court to recover the penalty assessed, where the validity, amount, and appropriateness of the penalty shall not be subject to review.

Other amendments in section 3 of S. 861 make conforming changes to CPSA section 20.

SECTION 4.—CHRONIC HAZARD ADVISORY PANEL

1. Background

Section 28 of the CPSA (15 U.S.C. 2077) requires that the CPSC appoint Chronic Hazard Advisory Panels to advise the CPSC respecting the chronic hazards of cancer, birth defects, and gene mutations associated with consumer products. In order to avoid possible conflicts of interest by members of a panel, section 28(b)(1) prohibited members of panels from receiving compensation from or having a "substantial financial investment in any manufacturer, distributor, or retailer of a consumer product." Many otherwise qualified experts have a "substantial financial interest" in manufacturers, distributors, or retailers of consumer products unrelated to the consumer product under investigation by the panel. As a result, the CPSC has had difficulty in locating qualified individuals to serve on panels.

2. Section as Reported

Section 4 of S. 861 amends section 28(b)(1) of the CPSA, to specify that a member of a Chronic Hazard Advisory Panel may not have a substantial financial interest in any manufacturer, distributor, or retailer of a consumer product "that may be the subject of the Panel's investigation".

SECTION 5.—AUTHORIZATION OF APPROPRIATIONS

Section 5 of S. 861 amends section 32 of the CPSA (15 U.S.C. 2081), providing that Congress authorizes appropriations of $35 million per year for fiscal years 1984 and 1985.

The Office of Management and Budget (OMB) has recommended an authorization level of $32 million for each year. However, the Committee believes that the CPSC will require an increase in funding over the OMB recommendation in order to continue to protect consumers adequately from hazardous consumer products.

The Committee intends that the additional $3 million above the OMB recommendation be expended for scientific technical research, field investigations, cooperation in voluntary standards development, compliance and other activities which have been deferred or delayed.

SECTION 6.—FLAMMABLE FABRICS ACT

1. Background

Section 8(a) of the Flammable Fabrics Act (15 U.S.C. 1197(a)) states that no person is subject to sanctions under section 7 of that

act (15 U.S.C. 1196) for violations of product flammability standards if that person (1) can establish that he received, in good faith, a certificate of compliance, or "guaranty", from the manufacturer or seller of the product that the product meets the standard, and (2) has done nothing by further processing that affects the flammability characteristics of the fabric or other product covered by the guaranty received. Section 8(a) lists three means by which such a guaranty can be given:

(1) A separate guaranty specifically designating the product, fabric, or related material covered by the guaranty;

(2) A continuing guaranty given by the seller directly to the buyer in a form prescribed by CPSC regulation; or

(3) A continuing guaranty filed with the CPSC and applicable to any product or fabric handled by the guarantor.

The Committee believes that guaranties under the FFA serve a useful purpose. They are an assurance to both the buyer and the public that the seller has tested the products covered by the guaranty and that the products comply with applicable flammability standards. However, the Committee believes that the seller should give this assurance directly to the buyer.

The seller-buyer interaction offers an adequate opportunity for seller to guaranty to buyers the seller's compliance with the requirements of the FFA. Use of the CPSC as an intermediary in traditionally private transactions incurs expenditures of Federal funds, is inefficient, and is unnecessary.

2. Section as Reported

Section 6 of S. 861 would repeal the third method of giving guaranties (i.e., continuing guaranties filed with the CPSC). The two methods of providing direct seller-to-buyer guaranties would be retained. The Committee is convinced that the two remaining means of giving guaranties will provide adequate protection to buyers and will serve the purposes behind FFA section 8(a).

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Consumer Product Safety Act

Section 6 of that Act

PUBLIC DISCLOSURE OF INFORMATION

Sec. 6. (a)(1)–(7) * * *

(8) The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers [or employees], *employees or representatives of the Commission (including contractors)* concerned with carrying out this Act or when relevant in any administrative proceeding under this Act, or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information in

Commission administrative proceedings, or in judicial proceedings to which the Commission is a party, shall be governed by the rules of the Commission (including in camera review rules or confidential material) for such proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.

(b)–(d) * * *

Section 20 of that Act

CIVIL PENALTIES

SEC. 20. (a) * * *

(b) In determining the amount of any penalty to be sought upon commencing an *administrative proceeding or civil* action seeking to assess a penalty for a violation of section 19(a), the Commission shall consider the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, the number of defective products distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

(c) In its discretion, the Commission may either assess a civil penalty for violation of section 19(a) administratively (after an opportunity for a hearing in accordance with section 554 of title 5, United States Code) or bring an action for assessment of a civil penalty in the United States District Court for the District of Columbia or for the district in which the respondent or defendant resides or has his principal place of business.

[(c)] *(d)* Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed. The amount of [such penalty] *any civil penalty under this section* when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(e)(1) If the Commission assesses a civil penalty administratively for a violation of section 19(a), not later than 30 days after the issuance of the Commission's order making the assessment, the person adversely affected by the order may seek review solely in the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business. The Commission's order shall not be affirmed by the court of appeals unless the order is supported by substantial evidence in the administrative record.

(2) In a civil action by the Commission to recover a civil penalty under this section, the validity, amount and appropriateness of the penalty shall not be subject to review.

[(d)] *(f)* As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

Section 28 of that Act

CHRONIC HAZARD ADVISORY PANEL

SEC. 28. (a) * * *

(b) Each Panel shall consist of 7 members appointed by the Commission from a list of nominees who shall be nominated by the President of the National Academy of Sciences from scientists—

(1) who are not officers or employees of the United States, and who do not receive compensation from or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product *that may be the subject of the Panel's investigation;* and

(2) who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances.

The President of the National Academy of Sciences shall nominate for each Panel a number of individuals equal to three times the number of members to be appointed to the Panel.

(c)–(h) * * *

Section 32 of that Act

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, not to exceed—

(1) $51,000,000 for the fiscal year ending June 30, 1976;

(2) $14,000,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $60,000,000 for the fiscal year ending September 30, 1977;

(4) $68,000,000 for the fiscal year ending September 30, 1978; [and]

(5) $55,000,000 for the fiscal year ending September 30, 1979;

(6) $60,000,000 for the fiscal year ending September 30, 1980;

(7) $65,000,000 for the fiscal year ending September 30, 1981;

(8) $33,000,000 for the fiscal year ending September 30, 1982; **[and]**

(9) $35,000,000 for the fiscal year ending September 30, 1983**[.]**;

(10) $35,000,000 for the fiscal year ending September 30, 1984; and

(11) $35,000,000 for the fiscal year ending September 30, 1985.

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, severance pay under section 5595 under such title, and any other expense related to a reduction in force in the Commission, there are authorized to be appropriated such sums as may be necessary.

(b)–(c) * * *

THE FLAMMABLE FABRICS ACT

Section 8 of that Act

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the product, fabric, or related material guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made in accordance with standards issued or amended under the provisions of section 4 of this Act show that the fabric or related material covered the guaranty, or used in the product covered by the guaranty, conforms with applicable flammability standards issued or amended under the provisions of section 4 of this Act, and (2) has not, by further processing, affected the flammability of the fabric, related material, or product covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the product, fabric, or related material guaranteed, in which case it may be on the invoice or other paper relating to such product, fabric, or related material; *or* (2) a continuing guaranty given by seller to buyer applicable to any product, fabric, or related material sold or to be sold to buyer by seller in a form as the Commission by rules and regulations may prescribe [; or (3) a continuing guaranty filed with the Commission applicable to any product, fabric, or related material handled by a guarantor, in such form as the Commission by rules or regulations may prescribe].

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